

Regulator Performance Framework

ACMA self-assessment methodology

AUGUST 2015

Canberra

Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555
F +61 2 6219 5353

Melbourne

Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

T +61 3 9963 6800
F +61 3 9963 6899

Sydney

Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

T +61 2 9334 7700 or 1800 226 667
F +61 2 9334 7799

Copyright notice

<http://creativecommons.org/licenses/by/3.0/au/>

With the exception of coats of arms, logos, emblems, images, other third-party material or devices protected by a trademark, this content is licensed under the Creative Commons Australia Attribution 3.0 Licence.

We request attribution as: © Commonwealth of Australia (Australian Communications and Media Authority) 2015.

All other rights are reserved.

The Australian Communications and Media Authority has undertaken reasonable enquiries to identify material owned by third parties and secure permission for its reproduction. Permission may need to be obtained from third parties to re-use their material.

Written enquiries may be sent to:

Manager, Editorial and Design
PO Box 13112
Law Courts
Melbourne VIC 8010
Tel: 03 9963 6968
Email: candinfo@acma.gov.au

Contents

Introduction	1
RPF and other performance reporting	2
Scope of ACMA regulatory remit	3
Stakeholder input and external evaluation	3
Self-assessment report methodology and performance measures	4
Self-assessment process	7
Reporting	7
Attachment A: KPI assessment measures and evidence	9
Key principles of efficiency and effectiveness	9
Selection of performance measures	9
Menu of evidence	12
KPI 1—Regulators do not unnecessarily impede the efficient operation of regulated entities	13
KPI 2—Communication with regulated entities is clear, targeted and effective	17
KPI 5—Regulators are open and transparent in their dealings with regulated entities	17
KPI 3—Actions undertaken by regulators are proportionate to the risk being managed	21
KPI 4—Compliance and monitoring approaches are streamlined and co-ordinated	23
KPI 6—Regulators actively contribute to the continuous improvement of regulatory frameworks	25

Introduction

This report details how the Australian Communications and Media Authority (the ACMA) intends to establish a performance assessment framework to implement the government's Regulator Performance Framework (RPF).

As part of the government's deregulation agenda, the RPF was developed to measure the efficiency and effectiveness with which regulators undertake their roles, and in particular their impact on regulated entities. The framework encourages regulators to:

- > minimise the impact of regulatory burden on regulated communities
- > increase their transparency and accountability
- > focus on continuous improvement of regulatory frameworks.

The RPF consists of six key performance indicators (KPIs) that cover common core regulatory activities:

- > KPI 1—Regulators do not unnecessarily impede the efficient operation of regulated entities.
- > KPI 2—Communication with regulated entities is clear, targeted and effective.
- > KPI 3—Actions undertaken by regulators are proportionate to the risk being managed.
- > KPI 4—Compliance and monitoring approaches are streamlined and co-ordinated.
- > KPI 5—Regulators are open and transparent in their dealings with regulated entities.
- > KPI 6—Regulators actively contribute to the continuous improvement of regulatory frameworks.

The RPF requires the ACMA to:

- > establish a performance assessment framework and annually self-assess its performance against the KPIs
- > publish a report of its self-assessment results each year
- > seek stakeholder consultation on its performance assessment framework and the annual self-assessment reports.

RPF and other performance reporting

Regulatory agencies will still be required to report via whole-of-government performance reporting frameworks under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), in addition to any agency specific legislative reporting requirements. The underlying objective of the PGPA Act is to provide Parliament and the public with coherent, consistent, meaningful data about the performance of government entities. The Enhanced Commonwealth Performance Framework (ECPF), which is the new performance reporting framework under the PGPA Act, will apply to all Commonwealth entities.

The RPF is a process-orientated assessment focussed on the efficiency and effectiveness of how regulators implement regulation. In comparison, the ECPF is a broader assessment of the effectiveness of Commonwealth entities in achieving policy outcomes. Both, however, aim to increase the accountability and transparency of government entities, and as such, there are consistencies between the two in terms of their focus on making information clear, objective and publicly available.

The ACMA has sought to integrate the requirements of the RPF into its corporate performance reporting activities. The ACMA has identified a strong alignment between the RPF's KPIs and the ACMA's strategic functions, as expressed in the ACMA's corporate plan through its key result areas (KRAs). The ACMA's key functions, expressed as outcomes, are as follows:

- > That the allocation and use of public resources maximises the public value to the Australian community (KRA 1).
- > That national safety and security interests are appropriately supported in the planning and delivery of communication infrastructure services (KRA 2).
- > That consumer, citizen and audience safeguards are effective, reflect community standards and deliver on consumer experience (KRA 3).
- > That citizens engage positively, confidently and securely in the developing information economy and evolving networked society (KRA 4).
- > That the ACMA remains relevant as an increasingly resilient, agile, efficient and knowledge-based organisation (KRA 5).

Figure 1 below provides a high level mapping of the relationship between the ACMA's KRAs and the RPFs KPIs.

Figure 1: Mapping of ACMA functions to RPF KPIs—green indicates alignment

ACMA KRA outcome and function	KPI 1	KPI2 & 5*	KPI 3	KPI 4	KPI 6
KRA 1: That the allocation and use of public resources maximises the public value to the Australian community (Including licensing, numbering and interference management)	Green	Green	Green	Green	Green
KRA 2: That national safety and security interests are appropriately supported in the planning and delivery of communication infrastructure services	White	Green	Green	White	Green
KRA 3: That consumer, citizen and audience safeguards are effective, reflect community standards and deliver on consumer experience (Investigation, compliance and enforcement, and the establishment of appropriate safeguards)	Green	Green	Green	Green	Green
KRA 4: That citizens engage positively, confidently and securely in the developing information economy and evolving networked society	White	Green	White	Green	White
KRA 5: That the ACMA remains relevant as an increasingly resilient, agile, efficient and knowledge-based organisation (regulatory reform and the provision of advice and information through reporting, research and stakeholder engagement)	Green	Green	White	White	Green

Scope of ACMA regulatory remit

The ACMA has responsibilities under four principal acts—the *Radiocommunications Act 1992*, the *Telecommunications Act 1997*, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and the *Broadcasting Services Act 1992*. There are another 22 Acts administered by the ACMA in relation to matters such as anti-spam, the Do Not Call Register, and interactive gambling. The ACMA also administers more than 400 regulatory instruments, including radiocommunications, telecommunications regulations, and licence area plans for free-to-air broadcasters.

A significant feature of Australian communications and media regulation is the use of industry co- and self-regulatory arrangements in a number of areas of the broadcasting, telecommunications and online sectors. The exercise of these powers is undertaken against the backdrop of the communications and media industries facing unprecedented, largely internet-driven change. In discharging these regulatory responsibilities, the ACMA is intent on making communications and media work in Australia’s public interest through three key activities: communicating; facilitating and regulating.

The ACMA has developed a set of regulatory and non-regulatory strategies that are suited to solving particular types of problems and addressing harms. This allows the ACMA the flexibility to adapt its responses to the breadth and variety of the stakeholders within its remit and to the changing pressures occurring within the media and communications environment. This has formed the basis of the ACMA’s response to the RPF.

Stakeholder input and external evaluation

The ACMA’s self-assessment framework has benefited from input from its regulated community. Stakeholders were largely supportive of the ACMA’s proposed approach, but also provided a number of recommendations that have either been incorporated into the framework or adopted by the ACMA as proposals for continuous improvement. Common themes revolved around communication and transparency strategies, such

as availability of forward work programs and compliance priorities, and earlier engagement on problem-solving and regulatory consultation. More systematic approaches to review and feedback processes, and clearer links between evidence and outcomes were other common themes to the recommendations received. As a result of this feedback, these matters have been more clearly articulated in the performance measures, evidence items and self-assessment questions of the ACMA's RPF framework, as described in the remainder of this document.

In addition, the ACMA engaged external consultants, from the Institute for Governance and Policy Analysis, University of Canberra, to undertake a best practice examination of the self-assessment framework and ensure it reflects the operational objectives of the RPF. The final evaluation report notes the ACMA's self-assessment framework is fit-for-purpose in supporting the RPF, the needs of the ACMA, and the principles and practice of performance management.

Self-assessment report methodology and performance measures

The ACMA's annual self-assessment report will:

- > provide an assessment of the ACMA's performance against each of the six RPF KPIs
- > provide information on the ACMA's performance that encompasses both time-series tracking and contextual performance measures and evidence
- > identify areas for potential regulatory reform or streamlining of processes
- > identify areas for future performance improvement
- > provide an explanation of the ACMA's overall performance against the RPF.

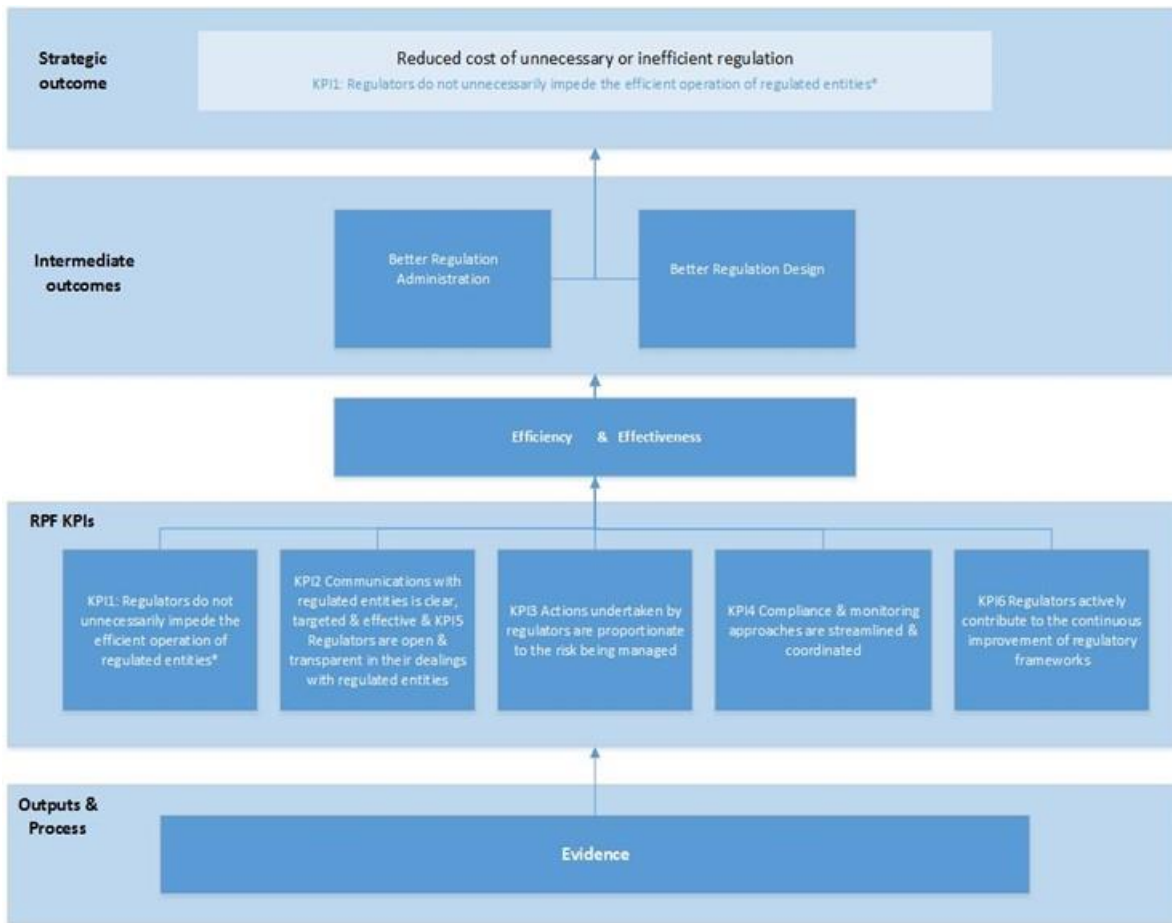
In future years, the self-assessment report will provide feedback on the ACMA's progress against continuous improvement activities previously identified.

In designing its self-assessment methodology, the ACMA has drawn on the OECD's 2014 work on developing frameworks for regulatory policy evaluation¹, as well as specific guidance material from the [Department of Prime Minister and Cabinet](#) that strongly encourages the use of existing data sources to ensure no additional burden is created for industry. The ACMA's performance measures and items of evidence are drawn from existing internal reporting and data collection processes that are already resourced.

The ACMA intends to use a methodology informed by program logic analysis of the RPF. This aligns the ACMA's understanding of the strategic outcome of the RPF with KPI 1—that is, to demonstrate how the ACMA undertakes its functions with the minimum impact necessary to achieve regulatory objectives. KPI 1 therefore has relevance both at the level of output and strategic outcome. Using the lenses of better regulation design and better regulation administration, as intermediate outcomes supporting achievement of this strategic outcome, the RPF KPI outputs are aligned as per Figure 2.

¹ OECD (2014), *OECD Framework for Regulatory Policy Evaluation*, OECD publishing.
<http://dx.doi.org/10.1787/9789264214453-en>.

Figure 2: Regulator Performance Framework program analysis



Using this analysis, the ACMA has grouped KPI 2 and KPI 5 together because both have outputs that relate to consultation, openness and effective communication of information, leading to appropriate and fit-for-purpose decision making.

Performance measures against the KPIs have been selected on the basis of measuring the ACMA’s achievement of the two intermediate outcomes, which in turn support the overall strategic outcome, and which the ACMA believes reflect the better practice principles for regulators outlined by the ANAO²:

- > Better regulation design:
 - > Continuous improvement of regulatory performance through better design of regulation is a key strategic outcome for the ACMA and the RPF, leading to regulation that is fit-for-purpose, and finely-tuned to achieve its objectives with minimum regulatory burden. The ACMA considers outputs and processes that would demonstrate this include: robust regulatory design; performance of cost-benefit analysis; review and continuous improvement of regulatory arrangements; and ACMA regulatory practice. In some instances, demonstration of performance may be best addressed through case study examples that illustrate how the ACMA has adopted a better regulation design approach.

² ‘Administering Regulation’ *Better Practice Guide* ANAO June 2014.

> Better regulation administration:

- > Better administration relates to minimising the burden of existing regulation on industry and citizens through improvements in processes and internal business practices, and prioritisation through risk-based assessments. Outputs and processes like licensing approvals, radiofrequency interference investigations, and resolution of broadcast content complaints are examples of ongoing activity by the ACMA that can have a cost implication for industry in terms of time taken for approvals, or time required for industry to comply with administrative processes. Demonstration of performance could include time-series data measuring the ACMA's improvement in efficiency and effectiveness over time.

The ACMA intends to test its achievements in meeting these two intermediate outcomes through measures that evaluate both the efficiency and effectiveness with which the ACMA conducts its business. For the purposes of the RPF, 'effectiveness' relates to the reduction of impositions on regulated entities and the extent to which the objective has been achieved, while efficiency relates to the ACMA producing outputs (for example, consultation mechanisms) at least cost. Under the RPF, the key concept is 'effectiveness' and the extent to which the strategic outcome is achieved. As depicted in Figure 2 above, both 'better regulation design' and 'better regulation administration' contribute to the strategic outcome, thereby both contributing to 'effectiveness'. For example, activities under 'better regulation administration (efficiency) have a cost and time implication for industry and so impact directly on effectiveness.

Accordingly, for each KPI, the ACMA will:

- > measure its performance against categories of better regulation design and better regulation administration from a [menu of measures](#) that evaluate both effectiveness and efficiency. The measures selected will depend on the KPI being evaluated.
- > draw on evidence against selected measures to assess performance. The body of evidence used by the ACMA will be drawn from existing data sources such as internal performance reporting, public performance reporting processes such as the annual report, and other information the ACMA currently collects.
- > apply a set of self-assessment questions for each KPI that, in combination, will elicit performance information about **what** the ACMA has done (including **how much** and **how well**), and **why this has led to improvements** for our stakeholders. The ACMA considers the underlying outcomes implicit in each KPI should drive the answer to 'why' the ACMA's actions have led to improvements for stakeholders. For this reason, a different set of questions has been derived for each KPI, to ensure the information collected has specific relevance to the outputs and processes being measured, and that evidence is drawn from sufficiently diverse sources.

Attachment A outlines the performance measures and body of potential evidence the ACMA proposes using to assess its performance against the RPF KPIs.

Self-assessment process

The ACMA's self -assessment process will comprise four key stages:

Stage 1: Assess available evidence to support each performance measure and then map this to the relevant RPF KPIs. The nature of the available evidence against each performance measure will vary according to sector, environmental factors, consumer behaviour, technological innovation, and risk profile.

Stage 2: Setting of targets and benchmarking. For the first cycle of the RPF, targets are drawn from statutory targets across the ACMA's functions. Additional stretch-targets and baseline measures for benchmarking to support continuous improvement of the ACMA's performance will be identified on completion of the ACMA's first full RPF cycle.

Stage 3: Individual analysis of each RPF KPI. This will comprise an assessment against:

- > the relevant ACMA performance measures
- > evidence against the RPF KPIs
- > stakeholder satisfaction with the ACMA's performance. The ACMA will seek direct input from stakeholders as to their assessment of the ACMA's performance against its self-assessment questions. This will be via a consultation process that the ACMA anticipates conducting in December and June of each RPF cycle.

Stage 4: Reporting. The ACMA will then use the analysis developed at stages 2 and 3 to report on its performance against the RPF KPIs, both individually and as a whole.

The scope of the ACMA's remit will influence the choice of measure, as different sectors the ACMA regulates have varying degrees of interaction with the ACMA and different risk profiles.

Reporting

The ACMA intends that the self-assessment report provide an account of the ACMA's performance against the RPF KPIs, supported by evidence of a qualitative and quantitative nature, including case studies. A descriptive approach allows the ACMA to make the causal links between evidence and the outcomes achieved explicit to the self-assessment reports audience. The use of selective case studies is designed to further illustrate this. The ACMA has chosen a self- assessment reporting structure focussed on the RPF KPIs and which allows differentiation between individual industry sectors. This is to enable the ACMA's stakeholders to more easily access the performance information of relevance to them, supporting the RPF's aim to increase the transparency and accountability of regulators activities.

The ACMA proposes that the structure outlined below be used in the self-assessment report:

1. Executive summary
2. Introduction
3. Methodology
4. Self-assessment process

5. ACMA self-assessment report—performance reporting against individual KPIs using quantitative targets and performance benchmarking and qualitative case studies and identification of areas for continuous improvement
6. Conclusion, including discussion of stakeholder survey response.

Attachment A: KPI assessment measures and evidence

In this section, the ACMA outlines the measures and potential evidence it intends to use to assess its performance under the RPF.

Key principles of efficiency and effectiveness

The ACMA believes that measures which evaluate both efficiency and effectiveness of ACMA activities will provide its stakeholders and government with meaningful information about its performance³.

Efficiency relates to the production of the ACMA's processes and outputs at least cost. This is an important consideration in its own right, but certain key efficiency measures such as timeliness of decision-making, cost of decisions (particularly in a cost recovery environment) also contribute to the effectiveness of decision-making and contribute to the achievement of the objective.

Effectiveness is a key concept to test the extent to which the strategic outcome of not impeding the efficient operation of regulated entities is achieved. In the ACMA's view, effectiveness is achieved through good decision-making and the implementation of those decisions that create beneficial outcomes for industry, consumers and citizens. In practice, the ACMA's decision-making is supported by a range of mechanisms to gather evidence for decisions, test the development and design of fit-for-purpose interventions, and apply the most effective action to manage the risk and achieve public interest outcomes.

Measures that have regard to efficiency and effectiveness together will contribute to a comprehensive evaluation of the ACMA's achievement of better regulation design and better regulation administration within the Australian communications and media environment, and ultimately, the ACMA's progress in reducing unnecessary regulatory burden on industry while balancing the needs of citizens and consumers.

Selection of performance measures

In selecting measures of efficiency, the ACMA has focused on performance measures that assess the extent to which the ACMA's operations and decisions about regulatory design and practice takes into account the impact on efficient operations of our regulated community. In selecting measures of effectiveness, the ACMA has drawn on the set of interventions in use in the communications and media self- and co-regulatory environment, as documented in the ACMA's regulatory practice paper [Optimal conditions for effective co- and self-regulation](#).

Selected measures are described below:

Timeliness—is a measure of how responsive or expeditious the ACMA is in carrying out its activities. Time taken to make decisions, process applications or respond to enquiries, for example, can have cost implications for industry in relation to delay (which can translate to expenses incurred or lost opportunities for revenue). Timeliness serves as a measure of current performance against existing benchmarks,

³ Department of Finance (2014), [Resource Management Guide No. 131 Developing good performance information](#).

as well as improvements over time from the ACMA's efforts to streamline processes. Evidence could include average time taken for approvals or decisions, and stakeholder satisfaction with ACMA responsiveness to requests. Timeliness needs to be considered in the context of factors such as risk and complexity, and needs to have regard to constraints such as due process.

Cost—refers to evidence of the ACMA having regard to the cost of regulation on regulated entities. This includes activities aimed at reducing costs related to compliance, enforcement or administration through streamlining processes; and activities that assess potential cost when developing new regulation. Evidence under this indicator can provide an assessment of the ACMA's efforts to undertake its functions with the minimum impact necessary to achieve regulatory objectives. The ACMA is guided in this by the total welfare standard, which requires evaluation of both the benefits and costs of regulation. The Office of Best Practice Regulation describes the total welfare standard in terms of an expectation that net benefits to the community exceed the costs of regulation. Evidence could include processes like consultation on regulatory proposals and results of stakeholder satisfaction with ACMA consultation, as well as outputs such as Regulatory Impact Statements (RISs) that include cost-benefit analyses.

Stakeholder satisfaction—tracking indicators that measure the level of stakeholder satisfaction with the ACMA allows assessment of how well the ACMA has integrated continuous improvement, accountability and transparency practices into its operations. In addition to serving as supporting evidence for matters such as timeliness of ACMA decision-making, it can provide information useful for identifying and prioritising areas for potential improvement.

Research and environmental scanning—refers to evidence of efforts made by the ACMA to understand the environment of its regulated community, including emerging issues of concern or harms, shifting profiles of risk and evidence of actual detriment. The ACMA's research activities provide a strong and objective evidence-base for identifying opportunities for improvement in the regulatory framework, or areas where regulatory burden can be reduced or removed. Processes such as the ACMA's published research program, and outputs such as ACMA research reports are evidence of this performance measure.

Use of alternatives to traditional regulation—covers a range of activities by the ACMA that demonstrate the use of alternatives to the application of direct regulatory practices. These include:

- > **better use of existing provisions**—examining whether regulatory aims or responsibilities can be met through existing arrangements, including those administered by other regulators, instead of the imposition of new obligations; and may be evidenced through consultation or review processes, and establishment of Memoranda of Understanding (MoUs) with other agencies
- > **market-based instruments**—such as taxes or fines to signal acceptable practices and behaviour
- > **use of diverse monitoring tools**—evidenced by initiatives to achieve regulatory objectives through means other than imposing additional reporting obligations on industry. Outputs such as streamlined information requests, MoUs for information-sharing, and utilising existing data sources, are ways in which compliance burden can be reduced while still acquitting regulatory responsibilities.
- > **rewarding good behaviour**—measures the ACMA's use of regulatory and non-regulatory actions that acknowledge or reward compliance with regulation. It may relate to actions that affect individual entities or sectors within an industry, as well as industry-wide initiatives. It serves as an indicator of the ACMA's application of

risk-management principles and takes previous good conduct into consideration when making enforcement decisions. This could include actions such as reducing/removal of reporting or monitoring requirements, lifting of information obligations or instances of forbearance.

Engagement in regulatory reform—is a mechanism for the ACMA to contribute to better regulation design and better regulation administration through the review of regulatory frameworks and contribution to reform consultation and deregulation initiatives (such as reviews by the Australian Law Reform Commission or the Department of Communications).

Use of information strategies—refers to a set activities that achieve regulatory objectives through information dissemination, education or communication. These can include:

- > **public education campaigns**—where the ACMA seeks to change the quality of the information available, or better target its distribution, to address information asymmetries or lack of knowledge among consumers, citizens or industry participants
- > **information disclosure** (including comprehensiveness of ACMA reporting)—relates primarily to activities that demonstrate transparency and accountability, or those which improve the operation of the regulatory framework through better communication and understanding of rights and benefits of regulatory arrangements. Outputs of information disclosure include publication of ACMA performance results and stakeholder satisfaction survey results, regulatory guidance materials, and publication of ACMA forward planning materials (such as a program of expected consultations, compliance priorities and the Five-year spectrum outlook).
- > **public statement of concerns**—about emerging issues to achieve regulatory objectives through deterrence. This also demonstrates transparency and has particular relevance to reducing compliance and monitoring activities. As an intervention strategy, it seeks to avoid the imposition of further regulatory burden, and the potential ensuing compliance costs, by providing opportunities for industry to address regulatory problems without legislative action by the ACMA. Evidence of the ACMA applying this approach includes publication of compliance priorities, or keynote speeches by senior ACMA representatives canvassing emerging issues of concern.

Transparent approach to compliance and enforcement (proportionate to risk)—is an indicator of the ACMA's performance against transparency and accountability principles and its application of risk-management to regulation and compliance activities. It applies at the broader, organisational-policy level. Outputs evidencing this measure may include publication of the ACMA's compliance and enforcement policies and priorities, or publication of complaint investigation reports that provide a clear statement of reasons for why a given decision was made.

Collaborative partnerships and facilitation—primarily relates to the ACMA's efforts to foster continuous improvement of the regulatory framework by engaging widely with stakeholders and facilitating information exchange and feedback loops, including liaison with the Department of Communications, or consulting with stakeholders on development of regulatory frameworks. Other examples include convening advisory committees or forums comprised of industry and government representatives to foster exchange of ideas and exploration of alternative solutions to regulatory problems.

Menu of evidence

In constructing a menu of evidence to support the performance assessment, the ACMA is mindful of not imposing an additional burden on regulated entities and other stakeholders. Accordingly, the ACMA has looked to make use of currently available data that describes the ACMA operations and activities at a given point in time. As the ACMA conducts performance assessments, it expects that the utility of specific pieces of evidence will be tested, and it may be necessary to reflect any change in the ACMA's activities by drawing on a different balance of evidence over time. The evidence used will be made explicit as part of the annual performance assessment.

The scale of the ACMA's regulatory responsibilities and the broad variety of strategies utilised in achieving its legislative objectives creates a challenge for the ACMA in terms of providing performance information that is useful and applicable to all of its stakeholders. To assist in the interpretation of performance measures and results, the potential evidence has been presented separately for each industry, reflecting different regulatory frameworks that apply to each sector. As a result of this division, there is some repetition in terms of the nature of the evidence across industry sectors (for example, average time taken to renew or allocate a licence could apply to telecommunications, broadcasting or radiocommunications, depending on the context).

KPI 1—Regulators do not unnecessarily impede the efficient operation of regulated entities

The ACMA considers the underlying outcome of KPI 1 relates to reducing the unnecessary cost burden of regulation, in particular to regulated entities. Key elements of this approach concern:

- > the effectiveness of the ACMA's decision-making in considering the proportion of regulatory burden in the context of the public interest assessments. This takes account of the environment of the regulated community and options to address the problem including regulatory and non-regulatory tools
- > the effectiveness of the ACMA's implementation of the decision in targeting the response to the particular problem
- > the efficiency of the ACMA's business processes and timeliness of decision-making, having regard to the complexity of the matter involved. For example, complex decisions such as spectrum band replanning may occur over a period of months and involve several elements of public consultation that take account of market structure and downstream implications for equipment suppliers and consumers. Different decisions and processes will have different cost and time implications.

Self-assessment questions for KPI 1:

1. Did the ACMA inform itself of, and take into consideration, the evolving technology and market pressures affecting communications and media industries as it identifies areas of risk and emerging areas of harm, and in the application of regulatory practice?
2. When contemplating or implementing initiatives that may have operational implications for regulated entities, did the ACMA undertake appropriate analysis of all relevant factors, consider options (including alternatives to regulation) and elicit evidence of the associated costs and benefits, to reduce the risk of negative impacts on industry, consumers and citizens? Did this include exploration of international experience and best practice?
3. Did the ACMA's processes implement decisions in a timely manner having regard to the complexity of the decision and cost considerations?
4. Did the ACMA seek opportunities for process improvements, including by engaging with stakeholders on the progress and evaluation of regulatory initiatives, the regular review of the stock of regulation and ACMA business processes to reduce the volume and cost of red-tape associated with ACMA administrative requirements?

Performance indicators

The ACMA will report annually on the following performance indicators to measure its performance against KPI 1:

- > [timeliness](#)
- > [cost](#)
- > [collaborative partnerships](#)
- > [use of alternatives to traditional regulation](#)
- > [research and environmental scanning.](#)

Menu of evidence

Broadcasting

- > Percentage of broadcasting investigations (content and classification) completed within ACMA organisational benchmark and average time to complete.
- > Percentage of applications for classification of children's and preschool programs completed within 60 days, and average time to complete.
- > Percentage of section 21 opinions delivered within 45-day statutory time frames and average time to complete.
- > Percentage of licence applications/renewals completed within specified time frames and average time to complete.
- > Percentage of contractual arrangements in place that have been subject to cost-benefit review within present RPF cycle.
- > Percentage of OBPR compliant preliminary assessments and RISs conducted for implementation/changes to regulation, showing cost-benefit analysis.
- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > Instances of action taken to improve ACMA business processes that affect industry and reduce costs (for example, licensing, formal opinions, exemption approvals).
- > Meetings held with advisory committees, panels or forums within the RPF reporting cycle, facilitating discussion and understanding of industry environment and issues.
- > Instances of use of alternatives to traditional regulation (for example, industry guidelines, or [codes of practice for co- and self-regulatory arrangements](#)).
- > Documentation of [consultations/reviews](#) of existing regulatory arrangements or post-implementation reviews of regulatory initiatives.
- > [ACMA research](#) conducted and published in RPF cycle, including into emerging issues, specific regulatory issues and challenges for the regulatory environment.

Telecommunications

- > Average time taken to investigate a complaint relating to:
 - > mobile premium services
 - > cabling
 - > Telecommunications Consumer Protection Code
 - > Do Not Call Register
 - > nuisance communications.
- > Percentage of complaints resolved within statutory time frames and average time to resolution, indicating efficient investigation processes.
- > Percentage of telecommunications carrier licences issued/ renewed within specified time frames and average time to complete.
- > Percentage of requested numbers allocated within required time frames.
- > Percentage of contractual arrangements in place that have been subject to cost-benefit review within the RPF cycle.
- > Percentage of OBPR compliant preliminary assessments and RISs conducted for implementation/changes to regulation, showing cost-benefit analysis.

- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > Average number of days spectrum is held under embargo, indicating facilitation of access to resources.
- > Use of alternatives to traditional regulation (for example, technical standards, operational codes, industry guidelines, codes of practice).
- > Meetings held with advisory committees, panels or forums within the RPF reporting cycle, facilitating discussion and understanding of industry environment and issues.
- > Participation in international forums and harmonisation activities to gain knowledge and understanding of issues and actions that may affect the Australian communications and media environment.
- > Documentation of [consultations/reviews](#) of existing regulatory arrangements or post-implementation reviews of regulatory initiatives.
- > Reviews conducted of existing regulatory arrangements (for example, Numbering Review, industry codes).
- > ACMA research conducted and published in RPF cycle, including into emerging issues, specific regulatory issues and challenges for the regulatory environment

Radiocommunications

- > Average time taken to issue apparatus licences.
- > Number of critical radiocommunications events resolved within ACMA KPIs and average time taken for resolution (for example, harmful interference, prohibited device identified and seized).
- > Percentage of licence applications/renewals completed within statutory time frames and average time to complete.
- > Percentage of OBPR compliant preliminary assessments and RISs conducted for implementation/changes to regulation, showing cost-benefit analysis.
- > Percentage of contractual arrangements in place that have been subject to cost-benefit review within the RPF cycle.
- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > Average number of days spectrum is held under embargo, indicating facilitation of access resources.
- > Consultation events with industry/stakeholders (such as RadComms conference), facilitating discussion and understanding of industry environment and issues.
- > Participation in international forums and harmonisation activities to gain knowledge and understanding of issues and actions that may affect the Australian communications and media environment.
- > Documentation of [consultations/reviews](#) of existing regulatory arrangements or post-implementation reviews of regulatory initiatives.
- > Instances of better use of existing provisions (for example, provision of trial licenses issued during the RPF cycle).
- > Reviews of existing regulatory arrangements undertaken by the ACMA during the RPF cycle (for example, programs considering more efficient and effective use of radiofrequency spectrum such as 1800 MHz review).
- > Instances of use of alternatives to traditional regulation, including technical standards and industry guidelines.

- > ACMA research conducted and published in RPF cycle, including into emerging issues, specific regulatory issues and challenges for the regulatory environment
- > Improvements to administrative processes for expiring spectrum licences (for example, Project HELM).

KPI 2—Communication with regulated entities is clear, targeted and effective

KPI 5—Regulators are open and transparent in their dealings with regulated entities

In the ACMA's view, both KPI 2 and KPI 5 are concerned with the effectiveness and efficiency of the ACMA's consultation and communications processes, and for this reason have been considered together. The ACMA uses a number of communications strategies to contribute to important outcomes, including:

- > compliance awareness amongst regulated entities where effective communications about regulatory decisions conveys expected standards of compliant behaviour
- > informed consumers and citizens are aware of their rights and the benefits of communications and media regulatory schemes
- > informed regulatory decision-making that garners information from consultations with affected stakeholders and then, provides clear reasoning for any regulatory or non-regulatory decisions.

Self-assessment questions for KPI 2 and 5:

1. Did the ACMA have a clear communications strategy and a clear set of public messages for communicating with affected stakeholders?
2. Did the ACMA use its expertise to assist stakeholders in their understanding of complex communications and media regulatory arrangements and communicate its approach to organisational risk management? Does it communicate this approach through the publication of up-to-date information, which is available in a wide range of formats?
3. Did the ACMA engage early with industry stakeholders when contemplating changes to frameworks that affect communications and media related industries, and did its consultation have a clear purpose directly linked to regulatory outcomes?
4. Did the ACMA resolve enquiries, applications or investigations with a sense of urgency, and with proper regard to due process? Did the ACMA give genuine consideration to complaints received about the ACMA and resolve them with appropriate transparency?
5. Where possible and appropriate (considering matters of confidentiality and fairness) did the ACMA publish its decisions and accompanying reasons, to promote awareness and understanding of the application of the communications and media regulatory framework and the ACMA's decision making?
6. Does the ACMA demonstrate transparency in the reporting of performance results and publication of data sets that are of value to its stakeholders and the community?

Performance measures

The ACMA will report annually on the following performance indicators to measure its performance against KPI 2 and 5:

- > [stakeholder satisfaction](#)
- > [timeliness](#)
- > [use of information strategies.](#)

Menu of evidence

Broadcasting

- > Stakeholder satisfaction survey is conducted and results published.
- > No of complaints per year to the ACMA about the ACMA.
- > Stakeholders are made aware of key milestones, procedural requirements and required time frames in the conduct of broadcasting investigations.
- > Number of ACMA decisions appealed per year, indicating strength and clarity of ACMA decisions and explanations.
- > Percentage of regulatory changes accompanied by publication on ACMA website, including details of consultation undertaken and reasons for action taken.
- > New information products made available on the ACMA's website during the RPF cycle, including access to data sets of potential value to stakeholders and the community.
- > Fit-for-purpose communications and engagement campaigns (for example, social media, blogs, media releases, google stakeholder briefings) during the RPF cycle.
- > Public industry events are conducted by ACMA to facilitate information exchange and feedback (for example, [broadcast licence fee tutorial sessions](#)).
- > [Industry registers are accessible from ACMA's public website \(Controlled media groups\)](#).
- > Public consultations with industry/stakeholders undertaken during the RPF cycle on issues of regulatory significance, prior to changes to regulatory frameworks.
- > Ability to demonstrate that information is made available in accessible formats (compliance with Government Web Content Accessibility Guidelines).
- > [Investigation reports](#), including statement of reasons, published on ACMA website for investigations completed within the RPF cycle.
- > Instances of reviews or updates of ACMA industry guides and information products during the RPF cycle.
- > Publication of forward planning materials such as ACMA program of expected consultations.
- > Governance reporting requirements are met (for example, publication of annual report).
- > Customer Service Centre performance data.

Telecommunications

- > Stakeholder satisfaction survey is conducted and results published.
- > Number of complaints per year to the ACMA about the ACMA.
- > Number of ACMA decisions appealed per year, indicating strength and clarity of ACMA decisions and explanations.
- > Percentage of regulatory changes accompanied by publication on ACMA website, including details of consultation undertaken and reasons for action taken.
- > Instances of reviews/updates of ACMA industry guides and information materials during the RPF cycle.
- > New information products made available on the ACMA's website during the RPF cycle, including access to data sets of potential value to stakeholders and the community.
- > [Industry registers are accessible from ACMA's public website \(for example, licensed carriers\)](#).

- > Ability to demonstrate that information is made available in accessible formats (compliance with Government Web Content Accessibility Guidelines).
- > [Public consultations](#) with industry/stakeholders undertaken during the RPF cycle on issues of regulatory significance (for example, [Reconnecting the Customer](#)) and reviews of existing regulatory arrangements undertaken (for example, numbering review) and published.
- > Long-range planning materials that are up-to-date and available to stakeholders (for example, the [Numbering plan](#)).
- > [Priority compliance areas are updated and published annually using a risk-based, evidence-informed framework.](#)
- > Meetings held with [advisory committees, panels or forums](#) within the RPF cycle to facilitate information exchange and feedback.
- > Investigation reports, including a statement of reasons, are published on the ACMA website for investigations completed within the RPF cycle, where appropriate.
- > Publication of forward planning materials such as ACMA program of expected consultations, Five-year spectrum outlook.
- > Governance reporting requirements are met (for example, publication of annual report).
- > Customer Service Centre performance data.

Radiocommunications

- > Stakeholder satisfaction survey is conducted and results published.
- > Number of complaints per year to the ACMA about the ACMA.
- > Number of ACMA decisions appealed per year, indicating strength and clarity of ACMA decisions and explanations.
- > Percentage of regulatory changes accompanied by publication on ACMA website, including details of consultation undertaken and reasons for action taken.
- > Instances of reviews/updates of ACMA industry guides and information materials published during RPF cycle.
- > New information products made available on the ACMA's website during the RPF cycle, including access to data sets of potential value to stakeholders and the community.
- > Percentage of licencing application/renewal decisions (spectrum) published during the RPF cycle.
- > [Public industry events are conducted by ACMA \(for example, RadComms conference\).](#)
- > Industry registers are accessible from ACMA's public website (Register of RadComms licences).
- > Licencing application decisions are published during the RPF cycle for applications made during the cycle.
- > Ability to demonstrate that information is made available in accessible formats (compliance with Government Web Content Accessibility Guidelines).
- > Long-range planning materials are up-to-date and available (for example, [Five-year spectrum outlook](#)).
- > Investigation reports, including a statement of reasons, published on ACMA website for investigations completed within the RPF cycle, where appropriate.
- > [Priority compliance areas are updated and published annually using a risk-based, evidence-informed framework.](#)

- > [Public consultations](#) with industry/stakeholders undertaken during the RPF cycle on issues of regulatory significance, prior to changes to regulatory frameworks, and submission published.
- > Governance reporting requirements are met (for example, publication of annual report).
- > Customer Service Centre performance data.

KPI 3—Actions undertaken by regulators are proportionate to the risk being managed

The ACMA regards the underlying outcome of KPI 3 as compliance and enforcement actions that are proportionate, reasonable and achieve a net benefit. An element of this KPI concerns the effectiveness of the ACMA's decision-making, where there is an explicit consideration of risk in the design and implementation of regulatory or non-regulatory responses. A further element is the efficiency of the processes established by the ACMA to manage risk, such as, for example, compliance and assurance processes to mitigate risks to Commonwealth revenue arising from licensing and fee payments.

Self-assessment questions for KPI 3:

1. Did the ACMA allocate or realign its resources to its monitoring and enforcement of compliance with communications and media regulation in proportion to the evidence of actual stakeholder detriment or risk to the integrity of the regulatory scheme?
2. Did the ACMA's approach to compliance and enforcement facilitate flexibility to adjust compliance and enforcement responses according to current risks?
3. Did the ACMA's approach to compliance and enforcement allow for consideration of previous conduct and the value a regulated entity provides its community, in addition to other sources of evidence when making decisions under communications and media regulations?
4. Has the identification of areas for reduction in regulatory burden been informed by a risk assessment?

Performance measures

The ACMA will report annually on the following performance indicators to measure its performance against KPI 3:

- > [cost](#)
- > [transparent approach to compliance and enforcement \(proportionate to risk\)](#)
- > [use of information strategies](#)
- > [rewarding good behaviour.](#)

Menu of evidence

Broadcasting

- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > Reductions in reporting requirements, such as waivers for audit certification in broadcasting areas.
- > Publication of reports and media releases about broadcasting investigations, demonstrating how ACMA resources have been used in relation to compliance and enforcement.
- > Publication of broadcasting *Investigations concepts* series.
- > Publication and use of ACMA Compliance and Enforcement Policy.
- > Publication of the use of informal warnings or contacts.
- > Uses of incentive-based alternative approaches to traditional regulation (for example, reducing reporting requirements in recognition of prior conduct, captioning breaches withheld).

Telecommunications

- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > Publication of reports and media releases about telecommunications investigations, demonstrating how ACMA resources have been used in relation to compliance and enforcement.
- > Specific examples of where ACMA exercises its discretion to reduce or exempt normal requirements in recognition of prior conduct (for example, TIO Scheme exemptions).
- > Publication of the use of informal warnings or contacts.
- > Publication of enforceable undertakings, indicating flexibility in compliance and enforcement approach.
- > Publication and use of ACMA Compliance and Enforcement Policy.
- > Use of incentive-based alternatives to traditional regulation including codes of practice for co- and self-regulatory arrangements, technical standards, operational codes and industry guidelines.

Radiocommunications

- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > Number of critical radiocommunications events resolved within ACMA KPIs and average time taken for resolution (for example, harmful interference, prohibited device identified and seized).
- > Publication of reports and media releases about radiocommunications investigations, demonstrating how ACMA resources have been used in relation to compliance and enforcement.
- > ACMA radiocommunications [compliance priorities](#) for the current RPF cycle are available on the ACMA public website throughout the RPF cycle.
- > ACMA priority compliance areas are reviewed and updated annually using a risk-based, evidence-informed framework to reflect changing priorities and risk.
- > Use of incentive-based alternatives to traditional regulation, including technical standards and industry guidelines.

KPI 4—Compliance and monitoring approaches are streamlined and co-ordinated

The ACMA considers that achieving efficient and effective compliance and monitoring approaches that are streamlined and well-co-ordinated relies on responses that are fit-for-purpose to the risks being managed, as well as use of appropriate communication and information strategies. For these reasons, the ACMA will draw on evidence from KPIs 2, 3 and 5 that cover these matters, as well as the additional performance measures identified below.

Self-assessment questions for KPI 4:

1. Does the ACMA have internal clearance processes in place to ensure that information requests regarding applications or investigations seek all and only the data required to meet legislative decision-making requirements?
2. In relation to its reporting requirements, did the ACMA engage with stakeholders on the most effective way to minimise the impact of data requests while still acquitting legislative requirements?
3. Did the ACMA engage with stakeholders and other regulators on opportunities to share or re-use existing information for ACMA purposes to the extent allowable under legislation?
4. Did the ACMA prioritise its compliance monitoring according to a risk assessment of evident harms, and where there is no danger of compromise to an investigation or enforcement activity, engage cooperatively with stakeholders on monitoring and inspection activities?

Performance measures

The ACMA will report annually on the following performance indicators to measure its performance against KPI 4:

- > [timeliness](#)
- > [use of alternatives to traditional regulation](#)
- > [transparent approach to compliance and monitoring \(proportional to risk\)](#)
- > [stakeholder satisfaction](#).

Menu of evidence

Broadcasting

- > Number of critical broadcasting events resolved within statutory time frames and average time taken for resolution (for example, interference to telecasts).
- > Ability to demonstrate the ACMA has an internal clearance process for the use of formal information-gathering powers.
- > The ACMA applies a graduated response [compliance and enforcement policy](#).
- > Consultation with affected parties on scope of information notice is undertaken in relation to public reporting obligations.
- > The ACMA has an ongoing [research program](#), which informs its assessment and monitoring of potential harms.
- > ACMA stakeholder satisfaction survey is conducted, demonstrating openness to feedback and improvement.
- > Demonstration of use of existing data sources (including establishment of MoUs for information-sharing with relevant regulators).

Telecommunications

- > Ability to demonstrate the ACMA has an internal clearance process for the use of formal information gathering powers and section 521 notices are employed proportionate to risk.
- > Consultation with affected parties on scope of information notice in relation to statutory public reporting obligations.
- > The ACMA has an ongoing [research program](#), which informs its assessment and monitoring of potential harms.
- > The ACMA applies a graduated response [compliance and enforcement policy](#).
- > ACMA stakeholder satisfaction survey is conducted, demonstrating openness to feedback and improvement.
- > Demonstration of use of existing data sources (including establishment of MoUs for information-sharing with relevant regulators).

Radiocommunications

- > Number of critical radiocommunications events resolved within ACMA KPIs and average time taken for resolution (for example, harmful interference, seizure of prohibited devices).
- > The ACMA has an ongoing [research program](#), which informs its assessment and monitoring of potential harms.
- > The ACMA applies a graduated response [compliance and enforcement policy](#).
- > ACMA Radiocommunications [compliance priorities](#) for the current RPF cycle are available on the website throughout the RPF cycle.
- > ACMA stakeholder satisfaction survey is conducted, demonstrating openness to feedback and improvement.
- > Demonstration of use of existing data sources (including establishment of MoUs for information-sharing with relevant regulators).

KPI 6—Regulators actively contribute to the continuous improvement of regulatory frameworks

The ACMA is of the view that KPI 6 is primarily concerned with the effectiveness of existing regulatory frameworks administered by the ACMA. The ACMA contributes to continuous improvement of regulatory frameworks in a number of ways, including:

- > working with stakeholders to identify and engage on regulatory reform proposals, including the cost of reforms
- > working with other regulators and regulated entities to exchange information about best practice and promote positive outcomes under existing regulation
- > providing advice to government identifying where reform to existing regulatory frameworks may be required
- > promoting public debate about the changes occurring in the wider industry and consumer environment that have implications for regulatory settings.

Self-assessment questions for KPI 6:

1. Does the ACMA make use of its stakeholder forums, advisory committees and reference panels to collaborate with stakeholders on the progress, review and improvement of regulatory arrangements or initiatives?
2. Did the ACMA enable wide, early consultation when canvassing options to address regulatory issues or revise regulatory settings, and actively seek stakeholder input to identify best practice approaches and identifying the likely cost burden and other impacts applicable to identified options?
3. Does the ACMA provide for departmental representation on its forums, advisory committees and reference panels and engage in staff-level communication and liaison with departmental counterparts across line areas to share information and identify potential for improvements in communications and media regulation?
4. Does the ACMA's research program contribute to an evidence base that assists in identifying opportunities for improvement in the regulatory framework?

Performance measures

The ACMA will report annually on the following performance indicators to measure its performance against KPI 6:

- > [collaborative partnerships and facilitation](#)
- > [use of alternatives to traditional regulation](#)
- > [engagement in regulatory reform](#)
- > [research and environmental scanning](#)
- > [stakeholder satisfaction](#).

Menu of evidence

Broadcasting

- > Consultation with industry/stakeholders including submissions sought/received from industry members or their representatives.
- > Number of inquiries or reviews into regulatory arrangements that have been conducted during the RPF cycle.
- > Instances of [consultations/reviews](#) of existing regulatory arrangements or post-implementation reviews of regulatory initiatives.
- > Percentage of OBPR-compliant preliminary assessments and RISs conducted for implementation/changes to regulation, indicating consultation undertaken on proposed regulatory change.

- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through-better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > Publication of forward planning materials such as ACMA program of expected consultations.
- > Advice to government, including department and minister, on regulatory reform proposals and advice and input to policy review processes (for example, captioning).
- > [ACMA research conducted and published in RPF cycle](#), including into emerging issues, specific regulatory issues and challenges for the regulatory environment.
- > ACMA stakeholder satisfaction survey is conducted, demonstrating openness to feedback and improvement.

Telecommunications

- > Participation in international forums and harmonisation activities to represent Australian interests in matters relevant to the communications and media environment.
- > Consultation with industry/stakeholders including submissions sought/received from industry members or their representatives.
- > ACMA specialist advisory committees (for example, [Numbering Advisory Committee](#)), which allow for collaboration and regulatory innovation
- > Documentation of [consultations/reviews](#) of existing regulatory arrangements or post-implementation reviews of regulatory initiatives.
- > Percentage of OBPR-compliant preliminary assessments and RISs conducted for implementation/changes to regulation, indicating consultation undertaken prior to proposed regulatory change,
- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through-better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > [ACMA research conducted and published in RPF cycle](#), including into emerging issues, specific regulatory issues and challenges for the regulatory environment.
- > ACMA stakeholder satisfaction survey is conducted, demonstrating openness to feedback and improvement.
- > Advice to government, including department and minister, on regulatory reform proposals and advice and input to policy review processes.
- > [Meetings held with advisory committees, panels or forums within the RPF reporting cycle.](#)
- > Improvements to access to public resources such as spectrum and telecommunications numbering.
- > Publication of forward planning materials such as ACMA program of expected consultations.

Radiocommunications

- > Percentage of OBPR-compliant preliminary assessments and RISs conducted for implementation/changes to regulation, indicating consultation undertaken on proposed regulatory change.
- > Consultation with industry/stakeholders including submissions sought/received from industry members or their representatives.

- > Reduction in regulatory burden and cost—instances of deregulation or red-tape reductions initiatives achieved through-better regulation, business improvements, streamlining of reporting requirements or regulatory reform.
- > ACMA stakeholder satisfaction survey is conducted, demonstrating openness to feedback and improvement.
- > Better use of existing provisions (for example, issue of scientific licences).
- > Documentation of [consultations/reviews](#) of existing regulatory arrangements or post-implementation reviews of regulatory initiatives.
- > [ACMA research conducted and published in RPF cycle](#), including into emerging issues, specific regulatory issues and challenges for the regulatory environment.
- > Convene specialist advisory committees which allow for collaboration and regulatory innovation.
- > Advice to government, including department and minister, on regulatory reform proposals and advice and input to policy review processes (for example, Spectrum Review).
- > Improvements to access to public resources such as spectrum.
- > Participation in international forums and harmonisation activities to represent Australian interests in matters relevant to the communications and media environment.
- > Publication of forward planning materials such as ACMA program of expected consultations.